



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

June 12, 2007

HAND DELIVERED

The Honorable Joe Arpaio
Maricopa County Sheriff
100 W. Washington, Suite 1900
Phoenix, AZ 85003

Dear Sheriff Arpaio:

On April 12, 2007, you announced that the Maricopa County Sheriff's Office (MCSO) was conducting an investigation into the prosecution of former Arizona State Treasurer David Petersen by the Arizona Attorney General's Office (the "Petersen investigation"). Since that date, I have been concerned about whether the Attorney General's Office (AGO) could continue as prosecutors on pending MCSO matters. Specifically, can the AGO continue to partner with MCSO on investigations and prosecutions at the same time that MCSO is conducting a criminal inquiry into how the AGO handled the Petersen investigation and plea?

The AGO has retained Edward F. Novak as outside counsel to examine these issues. Mr. Novak has consulted with Ethics Counsel for the State Bar of Arizona. Their conclusion is that pursuant to Ethical Rule 1.7, Arizona Rules of Professional Conduct, an ethical conflict of interest does exist. The conflict involves all matters for which MCSO is the investigating agency and the AGO is either prosecuting filed charges or consulting with and advising MCSO on pending investigations. During the pendency of the Petersen investigation, the AGO cannot continue to work with MCSO without raising serious conflict of interest concerns. Therefore, the AGO's continued work on MCSO investigations and prosecutions could not only subject individual lawyers to disciplinary review, it could generate defense motions that would complicate and potentially jeopardize the State's cases.

It is well established that when the lawyer's integrity is questioned, it may be difficult or impossible for that lawyer to give the detached legal advice the ethical rules require. Additionally, Arizona appellate courts often invoke the "appearance of impropriety" standard in reviewing matters related to lawyer ethics. Outside counsel believes, and I agree, that to continue to represent and advise MCSO raises the appearance that our prosecutors are not acting independently. Such an implication is not in the interests of our State or the interests of justice.

For those reasons, the AGO must recuse itself from further involvement with MCSO until the Petersen investigation is finished. I am returning to MCSO all materials on pending investigations not yet charged so that you may submit those matters to another prosecuting agency. In those cases for which court proceedings are pending and in which the AGO is attorney of record, I will request another

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prosecuting agency substitute as attorneys for the State. I have transferred the *Dowling* case to the United States Attorney for the District of Arizona, who has agreed to take over that prosecution.

I have valued the professional collaboration between our offices and believe we have achieved many benefits for the people of Arizona. Several of the pending cases have taken literally years of effort by MCSO and attorneys in the AGO. I am committed to making sure that we do not jeopardize the prosecutions we have worked on so hard. I remove the AGO from MCSO cases with regret in order to ensure that they will continue to resolution without distractive and possibly dispositive conflict issues.

I want to emphasize that my decision in this matter is not negotiable or intended in any way to influence investigative decisions. The timing and scope of the Petersen investigation is entirely within the discretion of the MCSO. When that inquiry is finished, I hope our offices can work together once again.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Goddard". The signature is written in a cursive, somewhat stylized font. The first name "Terry" is written in a larger, more prominent script, and "Goddard" follows in a similar but slightly smaller script. The signature is positioned above the printed name and title.

Terry Goddard
Arizona Attorney General